AB7, for "you to rectify the correct fob value". There is no mention of any fresh contract and he, all along, during those vital days around 11th June 1968, was thinking in terms of the contract at AB4 which he "reserved the right to consider cancelled".

I would add, for the removal of doubt, that in my view, the written offer signed by Sinitrada in the light of its oral acceptance by Bunge constitutes a sufficient note or memorandum of the contract within section 6 of the Civil Law Act (Cap. 30) if the law of Singapore as the *lex loci* applies to its enforceability. (See *Reuss and anor.* v. *Picksley and anor.*[4] and *Smith* v. *Neale*[5]). I have found that the terms of Form No. 50 including clause 17 thereof are incorporated in this contract, the proper law is English law. I mention this because Mr. Arul advanced the argument that the *lex loci contractus* was applicable, without developing this point further, and I have therefore considered whether, if section 6 aforesaid applies, any valid argument exists for saying that no enforceable contract ever came into existence in the first place. English law of course has removed the necessity for, *inter alia*, a note or memorandum in writing of the contract by virtue of the repeal of section 4 of the Sale of Goods Act, 1893. The position in Singapore in this respect is as it was before such repeal because of section 6 of the Civil Law Act.

In all the circumstances I have, after also considering the authorities cited relating to the time for opening letters of credit in relation to the shipment period, come to the conclusion that there are no sufficient grounds for setting aside the registration of the English judgment herein (see *Plasticmoda Societa Per Azioni* v. *Davidsons (Manchester) Ltd.*[6] per Denning L.J.).

The application is accordingly dismissed with costs.

Application dismissed.

Solicitors: *Rodyk & Davidson; Drew & Napier.*

PUBLIC PROSECUTOR v. GOH SEOW POH

[A.Cr.J. (Wee Chong Jin C.J.) April 11, 1973]

[Singapore — Magistrate's Appeal No. 79 of 1972]

Newspaper — Publication of letter from members of Singapore Armed Forces without verifying the names and particulars of the writers — Failure to give information to Ministry of Defence — Essential (Control of Publications and Safeguarding of Information) Regulations, 1966 — Emergency (Essential Press) Act (Cap. 114).

In this case the respondent, the editor of the *Nanyang Siang Pau* was charged with two charges under the Essential (Control of Publications and Safeguarding of Information) Regulations, 1966 in respect of a letter signed by "a group of soldiers" which was published in the paper. The charges alleged that the respondent had published the letter without first verifying the names and identities of the members of the armed forces who wrote the letter, their places of residence and the armed force to which they were attached and without establishing that the letter was in fact written by such members; and that on being required by the Ministry of Defence to furnish particulars in respect of the writers he failed to give such information. He was acquitted in the District Court on the ground that the prosecution had not made out a case in respect of both charges. The Public Prosecutor appealed.

Held: (1) on the facts of the case, the prosecution at the close of its case had established *prima facie* that the respondent published the letter after having received it from some members of the Singapore Armed Forces without making any enquiries whatsoever after receipt of the letter;

(2) on the evidence at the close of the prosecution case, it was clear that the respondent, *prima facie* had failed to divulge the information requested;

(3) non-compliance with a regulation under the Act falls within the ordinary meaning of the word "contravenes" and therefore is punishable under section 6 of the Emergency (Essential Powers) Act, which prescribes the punishment for any person who contravenes any regulation made under the Act, where no other penalty is provided by the regulation;

(4) in this case the respondent ought to have been called to enter his defence and therefore the order of acquittal should be set aside and the case remitted to the trial court.

MAGISTRATE'S CRIMINAL APPEAL.

Chia Quee Khee (Deputy Public Prosecutor) for the Public Prosecutor.

Sim Teow Gok for the respondent.

Wee Chong Jin C.J.: On 12th January 1972, the *Nanyang Siang Pau*, a Chinese daily newspaper, published a letter (hereinafter referred to as "the said letter") which as translated reads thus: —

"How To Be Discharged Earlier To Enter University

We are a group of soldiers still undergoing National Service and also Pre-University graduates of 1969. Though we had enrolled and were admitted to University in 1970, we are unable to enter the University to study because of National Service. The University authorities have promised our positions.

The date of our completion of National Service falls in Oct. 1972, hence all of us hope we can enter the University to study in July this year. (University session begins in July).

Therefore, through your honourable press, we hope to seek the advice of the Manpower Base on the following:

a) We intend to leave the camp 3 months earlier to enter the University to study, the balance of the National Service period be completed during University vacation. Can this be possible?

b) How to make such an application?

c) We are deeply obliged for an early reply from the authorities.

A group of soldiers."

As a result of the publication of the said letter, the Permanent Secretary to the Ministry of Defence wrote to the editor of that newspaper requiring him, in accordance with regulation 5B(2) of the Essential (Control of Publications and Safeguarding of Information) (Amendment) Regulations, 1970, to furnish to the Permanent Secretary particulars of (a) the names and identities; (b) the places of residence and (c) the units to which they are attached, of the writers of the said letter. The General Manager of Nanyang Publications (Pte) Ltd., the publishers of the *Nanyang Siang Pau* newspaper replied that as it was an anonymous letter they were "not in a position to furnish the information as requested . . . ". The decision to publish the said letter was taken by the respondent who deals with letters from readers and edits the editorial and "Public Opinion Page" of the newspaper.

The respondent was subsequently charged on the following two charges: —

"1st Charge

You, Goh Seow Poh,

are charged that you, on or about the 12th day of January, 1972 at the office of Nanyang Siang Pau, No. 307 Alexandra Road, Singapore, being the editor responsible for the page covering public opinions and editorial comments of the 'Nanyang Siang Pau' newspaper having received a letter from some members of the Singapore Armed Forces containing matter which such members are prohibited from communicating to any newspaper under the provisions of paragraph (1)(e) of Regulation 5A of the Essential (Control of Publications and Safeguarding of Information) Regulations, 1966, published the said letter without first verifying the names and identities of the members who wrote the letter, their places of residence, the armed force to which they are attached and without establishing that such letter was in fact written by such members, and thereby contravened regulation 5B(1) of the Essential (Control of Publications and Safeguarding of Information) Regulations, 1966 and punishable under section 6 of the Emergency (Essential Powers) Act (Chapter 114)."

"2nd Charge

You, Goh Seow Poh,

are charged that you, on or about the 20th day of January, 1972 at Singapore, being the editor responsible for the page covering public opinions and editorial comments in the 'Nanyang Siang Pau' newspaper published a letter containing matter which members of the Singapore Armed Forces are prohibited from communicating to any newspaper under the provisions of paragraph (1)(e) of regulation 5A of the Essential (Control of Publications and Safeguarding of Information) Regulations, 1966 and on being required by the Permanent Secretary to the Ministry of Defence by his notice in writing dated 14th January, 1972 to you to furnish particulars in respect of all the writers of the said letter, failed to furnish the information so required by the said Permanent Secretary and thereby committed an offence punishable under regulation 5B(3) of the Essential (Control of Publications and Safeguarding of Information) Regulations, 1966".

He was tried before a District Court and the above facts were adduced in evidence by the prosecution and were not disputed or seriously challenged by the defence. At the close of the case for the prosecution the District Judge acquitted and discharged the respondent on the ground that the prosecution had not made out a case in respect of both charges. The Public Prosecutor now appeals against the order of acquittal contending that the evidence before the District Judge had established a *prima facie* case in respect of both charges which if unrebutted would warrant a conviction.

As regards the first charge it is to be observed that the respondent is charged with publishing a letter, after having received it, from some members of the Singapore Armed Forces without first verifying the names and identities etc. "of the members who wrote the letter" and "without first establishing that such letter was in fact written by such members" and thereby contravened regulation 5B(1) of the Essential (Control of Publications and Safeguarding of Information) Regulations, 1966 and punishable under section 6 of the Emergency (Essential Powers) Act, (Chapter 114) The material provisions of regulation 5B(1) read as follows: —

"Where any editor ... of a newspaper or any officer or employee thereof receives from a member [of the Singapore Armed Forces] any letter ... which such member is prohibited from communicating ... to any newspaper under the provisions of paragraph (1) of regulation 5A of these Regulations, and such editor ... officer or employee desires to publish such letter ... he shall, by such means as he thinks fit, first verify the name and identity of such member and his place of residence and the armed force to which he is attached and shall establish that such letter ... was in fact written by such member".

It seems to me clear that regulation 5B(1), though inelegantly drafted, imposes an obligation on any editor of a newspaper or any officer or employee thereof who, after receiving from a member of the Singapore Armed Forces a letter which such member is prohibited from communicating to any newspaper under regulation 5A(1), is desirous of publishing the letter to do two things: first, he must, by such means as he thinks fit, verify the name, identity, place of residence and the armed force to which such member is attached and secondly, he must establish that the letter was in fact written by such member.

It follows, in my opinion, that any editor, officer or employee of a newspaper who publishes a prohibited letter received by him from a member of the Singapore Armed Forces without making any enquiries whatsoever must necessarily have failed to comply with the provisions of regulation 5B(1).

In my judgment, on the facts of the present case the prosecution at the close of its case has established, *prima facie*, that the respondent published the letter referred to in the first charge after having received it from some members of the Singapore Armed Forces and without making any enquiries whatsoever after receipt of the letter.

It is submitted on behalf of the respondent that even though the respondent had failed to comply with the provisions of regulation 5B(1) no offence had been committed by him because regulation 5B(1) has not in express terms created an offence. It is also submitted that section 6 of the Emergency (Essential Powers) Act, under which regulation 5B(1) was made, on its true construction cannot be successfully invoked because the section does not in express terms say that any person who contravenes any regulation shall be guilty of an offence but merely provides a penalty for an offence where a regulation that has been contravened does not provide a penalty.

Section 6 of the Act provides as follows: —

"Every person who contravenes any regulation made under this Act shall, where no other penalty is provided by the regulation, be liable to a fine ... or to imprisonment ... or to both".

In my judgment non-compliance with a regulation under the Act clearly falls within the ordinary meaning of the word "contravenes" and within the meaning of that word as used in section 6 of the Act. Furthermore, as no penalty is specifically provided by regulation 5B(1) itself for its contravention, a person who contravenes regulation 5B(1), in my judgment, is caught by the provisions of section 6 of the Act and is liable to the penalty provided therein.

Accordingly, the District Judge ought to have called on the respondent to enter upon his defence on the first charge and I reverse the order of acquittal and direct that the District Judge continue the trial by calling on the respondent to enter upon his defence on the first charge.

I now deal with the second charge. It seems to me on the evidence at the close of the case for the prosecution clear that the respondent, *prima facie*, had failed to divulge the information requested under paragraph 2 of the Permanent Secretary's letter of 14th January 1972. The reply to the letter merely gave the reason for not being in a position to furnish the requested information, namely, that the letter was an anonymous one. It is to be observed that the letter in its original form (see Exhibit P10) bears the date "8.1.72" and that it was published on the 12th January 1972 with the omission of the date "8.1.72". It is to be observed also that the letter did not contain a request that it should be published in the *Nanyang Siang Pau*. It follows, in my opinion, that if the respondent desired to publish the letter regulation 5B(1) imposes an obligation on him to verify the names etc. of the writers and to establish that the letter was in fact written by persons who are members of the Singapore Armed Forces. It follows, further, when the respondent published the letter on 12th January 1972 that it must be inferred, *prima facie*, that he had complied with the provisions of regulation 5B(1) and accordingly, *prima facie*, would have the information which was requested by the Permanent Secretary's letter of 14th January 1972. It may well be at the end of the trial when all the evidence (including the defence evidence, if any) is before the trial court that the respondent is entitled to be acquitted on the second charge but, in my judgment, at this stage of the trial the respondent ought to have been called upon to enter on his defence. I therefore set aside the order of acquittal and remit the matter to the trial court for the trial to proceed on the second charge.

Order accordingly.

Solicitors: *Sim Teow Gok & Co.*

RE FRANCIS T. SEOW
THE LAW SOCIETY OF SINGAPORE v. FRANCIS T. SEOW

[O.C.J. (Wee Chong Jin C.J., Winslow and Tan Ah Tah JJ.)
April 30, 1973]

[Singapore — Originating Summons No. 42 of 1973]

Advocate and Solicitor — Improper conduct — Improper letter to dispose of movable property of company with branch in Malaysia — Company subject to winding up in Singapore — Breach of undertaking to Attorney-General — Legal Profession Act (Cap. 217), ss. 84 (2) (b) and 90.

Evidence — Use of tape recording by solicitor — Solicitor not informing other person that conversation was being taped — Knowledge of disciplinary inquiry by Law Society — Weight to be attached to such evidence.

The respondent, an advocate and solicitor commenced practice under the firm name of "Francis T. Seow" in October 1971. Prior to this he was a legal officer in the Singapore Legal Service and held the post of Solicitor-General from 1969 to sometime in September 1971. In March 1972 one Isaac Paul Ratnam, also a former legal officer in the Singapore Legal Service joined his firm as a profit sharing partner. The respondent's firm was instructed by Gemini Chit Fund Corporation Limited, now in liquidation, in connection with certain chit fund matters. Ratnam was the solicitor in charge of all Gemini matters. A director of Gemini was arrested on a charge of criminal breach of trust of moneys entrusted to Gemini. The respondent's firm acted for this director in this criminal matter. The respondent personally appeared in court as counsel for the director in his application for bail pending trial. Sometime later in July 1972, the Minister for Finance, acting under the Chit Fund Act presented a petition for winding up of Gemini. The respondent's firm also acted as solicitors for Gemini in the winding up proceedings. In August 1972, a letter was sent by the respondent's firm to the General Manager of the Kuala Lumpur branch of Gemini. The material parts of the letter related to the disposal of movable property belonging to Gemini in West Malaysia. The letter was prepared by Ratnam and sent out before it was shown to the respondent. The respondent saw a copy of the letter the same afternoon and after reading it made an exclamation mark and a question mark on the copy of the letter. The respondent did not take any further action until several days later when he enquired as to whether Ratnam had taken any steps to inform the other side to ignore the instructions. Sometime in mid August 1972 a police party arrived at the respondent's office armed with a warrant for the arrest of Ratnam and with a search warrant for a search of the respondent's office. The respondent refused to allow the police to search his office. He called the Attorney-General on the telephone and gave his personal undertaking to hand over to the police all books, files and documents relating to Gemini. The Attorney-General relying on the respondent's undertaking instructed the police not to conduct a search of the respondent's firm and no search was conducted. The respondent subsequently relying on his partner, Ratnam, confirmed to the Attorney-General that all files relating to Gemini had been handed over to the police. It was later found that two files relating to Gemini's affairs and two deposit receipts and the seal of Gemini were in the respondent's office.

The matter was referred to a Disciplinary Committee appointed by the Chief Justice. The Disciplinary Committee found that the respondent was guilty of grossly improper conduct in the discharge of his professional duty under section 84 (2) (b) of the Legal Profession Act in failing in his duty to ensure that the letter to Gemini's office in Kuala Lumpur (having regard to its criminal nature, the full import of which was apparent to the respondent), was not countermanded, withdrawn, repudiated or otherwise negatived. The Disciplinary Committee also found the respondent guilty of grossly improper conduct in the discharge of his professional duty under section 84 (2) (b) in giving his undertaking to the Attorney-General so recklessly and irresponsibly. On an application to show cause under section 84 of the Legal Profession Act,

Held: (1) the respondent was not only guilty of an error of judgment in relying on and placing his trust in a partner but also was guilty of improper conduct in the discharge of his professional duty. It was wholly deplorable conduct of him as a man and dishonourable of his profession;

(2) on all the facts and circumstances it was not only gross misjudgment of Ratnam's character but also the gross failure on his part to honour his undertaking to the Attorney-General. A simple and normal step to take was for the respondent to give express orders and directions to every member of his staff to search every room of his office for any relevant files or documents relating to Gemini, but this was not done. It was culpable negligence on the part of the respondent in such circumstances as to amount to grossly improper conduct in the discharge of his profession;

(3) the respondent should be suspended from practice for a period of one year for these serious derelictions.

Observations on use of tape recording by solicitor as supporting evidence in disciplinary proceedings.

ORIGINATING SUMMONS.

L. P. Thean for the applicants.

M. Kempston Q.C. (*Lim Chor Pee* with him) for the respondent.